



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

June 28, 2022

Re: FOIA Request NLRB-2022-001399

Dear Amber Rogers (Hunton Andrews Kurth LLP):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on June 22, 2022, in which you seek copies of the

respective filings ... concerning the following statement in [the Regional Director's] Order: Moreover, the Agency's experience with processing representation petitions and holding post-election objections hearings shows that the long-standing procedure is to permit the Regional Director of the Regional Office accused of misconduct to designate a representative for the hearing.

1. *Fox Television Stations, LLC*, Case 28-RD-274741 (RD Overstreet cited it for the following proposition: "Regional Office afforded representative at post-election hearing where the objection alleged was Board agent misconduct") <https://www.nlr.gov/case/28-RD-274741>
2. *Patient Care of Pennsylvania, Inc.*, Case 04-RC-101021 (same) <https://www.nlr.gov/case/04-RC-101021>.

In the request, you stated that certain orders in Case Nos. 28-RD-274741 and 04-RC-101021 were unavailable on the Agency web site or via other legal research methods.

We acknowledged your request on June 22, 2022. In a June 22, 2022 email with a member of my staff, you assumed financial responsibility for the processing of your request in the amount of \$185.00. In that same email, you requested expedited processing. On June 22, 2022, your request for expedited processing was granted.

Searches of the Agency's electronic casehandling system, NxGen, have been conducted for the records in the two referenced cases that show in hearings concerning Board Agent misconduct allegations, the involved Regional Office had a representative at hearing, as well as for the Orders listed on the Agency's

case pages for 28-RD-274741 and 04-RC-101021. These searches have located the below 277 pages of responsive, releasable records.

1. The transcript for the hearing conducted by a Region 19 Hearing Officer in 28-RD-274741, showing on pages 3 and 7 of the attached FOIA response that the Region 28 Director had a designated representative;
2. The Region 19 Hearing Officer's Report on the Employer's Objections concerning the Board Agent's conduct in 28-RD-274741;
3. The Region 19 Order Directing Hearing and Notice of Hearing on Objection in 28-RD-274741;
4. The Employer's Objections in 28-RD-274741;
5. The Region 28 Order Directing Challenged Ballots be Opened and Counted in 28-RD-274741;
6. The General Counsel's June 11, 2021 Order transferring the case from Region 28 to Region 19;
7. The General Counsel's August 13, 2021 Order transferring the case from Region 19 to Region 28;
8. The transcript for the hearing conducted by an ALJ in 04-RC-101021, showing on pages 120 and 123 of the attached FOIA response that the Region 4 Director had a designated representative;
9. The ALJ Decision for the same hearing, referencing on page 263 of the attached FOIA response that the Region 4 Director had a representative;
10. The Employer's Objection in 04-RC-101021;
11. The March 28, 2013 Order Rescheduling the Hearing in 04-RC-101021; and
12. The May 24, 2013 Order Rescheduling the Hearing in 04-RC-101021.

Your request is, therefore, granted in full.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests "from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through

litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, you “will be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Two hours of professional time was expended in searching for and reviewing for release the requested material. Accordingly, please remit \$74.00.

Payment Instructions: Due to the COVID-19 pandemic and resulting widespread employee telework at the Agency’s Headquarters offices, we are no longer accepting checks or money orders as payment at this time. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select “Pay a FOIA Request.” Click “See all options” and go to “Filter By Agency” to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact Stephanie Hanson, the Attorney-Advisor who processed your request, at (202) 501-8648 or by email at stephanie.hanson@nrlb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the Attorney-Advisor, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration

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8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (277 pages)